UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
ZURITA, JAMES H

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/518,916	LUKAS ET AL.
	Examiner	Art Unit
	James H Zurita	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 June 2004</u>.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-39_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-39_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail. Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant filed an amendment on 9 June 2004. Applicant amended claims 1 and

18 and added claims 37-39.

Claims 1-39 are pending and will be examined.

Response to Arguments

Applicant's arguments filed 9 June 2004 have been fully considered but they are

not persuasive.

Applicant relies on selected portions of Henson to argue:

...Henson does not disclose user profiles that are uniquely associated with a user.
...Henson does not teach or suggest using profiles that are uniquely associated with a
particular user.
...Henson discloses that many users are associated with a single customer set and that
no single user is associated with a unique profile.
...Henson would not use unique user profiles in determining which merchandise to show.
...Henson does not maintain a user profile as required by the claims.

In response to these arguments, the Examiner respectfully directs applicant's

attention to portions of Henson which disclose that Henson provides databases that

contain individual, customer-specific, information (applicant's user profiles) that is used

for merchandising and to customize an individual customer's shopping experience,

emphasis added:

Col. 3, lines 36-44...single online store which ... generates a given online store view for a
particular customer set, *customizable per customer.* While the online store has the
appearance of many different stores to many different customers, in essence, it's the
same core online store but *customizable for each customer* and *database driven.*

... shopping cart is *customized* with *merchandising* options. The cart takes on
merchandising options similar to what the configurator is doing. With the *customizable*
checkout, the online store thus provides an end-to-and *customizable* store, at least to
some degree. The shopping cart is the least *customizable* portion of the online store.

The configurator is the most **customizable** portion of the online store. The checkout includes a **customizable** portion of the online store having a level of **customization** in between that of the shopping cart and the configurator. **The online store is thus end-to-end customizable.** The welcome page may also be made **customizable** to a given extent, being driven by the **database**, also.

... shopping cart 20, **custom** merchandising messaging 100 is provided. ...up-sell and cross-sell opportunities ... The entry of a text message in the store **database** 24 triggers the presentation of the merchandising or informational content on the shopping cart web page 102 as shown in FIG. 6. The **cart message is preferably varied on a customer-by-customer basis,** i.e., **customizable** by store. The shopping cart web page 102 further includes an ability for a **user to edit or delete** contents of the shopping cart...

Col. 9, lines 26-67...based upon the contents of the user's shopping cart, is there something that could be recommended as an upgrade or a cross-sell. **Specific to the customer,** what is it that could be helpful about what to do next with respect to the customer configured machine in the shopping cart....

Col 14, lines 4-18 ...online store includes an **ability to recognize which customer set that a customer who accesses the online store is in,** i.e., upon accessing the welcome page of the online store. Upon a recognition of the customer belonging to a particular customer set, the customer gets a store specific to the given customer. **Customer set refers to a particular company, organization, or individual,** thus there can be many customer sets. Part of the store difference is that the configurator determines what part of the online store does **the** customer get to see. The welcome page defines what products does the store allow **the** customer to see. The configurator determines which options **the** customer is allowed to look at within a given system (as chosen per the welcome page), merchandising options, what are allowed options, etc.

Col. 14, lines 35-61...Premier pages is an example of a particular type of customer set in which **discount pricing is private** and the information is password protected... **Customer sets may include individual customers,** businesses, organizations, federal government, etc. **Each customer** set will see a version of the online store specific to the respective customer set. ... the online store operates based upon the prescribed customer set of the given customer....

Col. 16, lines 43-51...generates a given view for a particular customer set, **which can be further customizable per customer.** The online store, however, has the appearance of many different stores to many different customers. In essence, it's the same core online store, however, it is **customizable** for each customer, further being **database** driven. **Customization** of the online store has thus been advantageously improved, in conjunction with the added features as discussed herein.

Therefore, applicant's arguments concerning absence of user profiles are not

persuasive.

Applicant again relies on selected portions of Henson to argue

...Henson does not update any type of user profile based on responses from a user.
...Henson does not update a user profile based on responses from the user.

...Henson does not update an [sic] characteristics in either a user profile, which Henson
does not even include, or in the customer set based on user responses.

In response to these arguments, the Examiner respectfully directs applicant's

attention to portions of Henson which disclose that Henson permits customers to select

and update characteristics of their information in the databases: Fig. 8, for example,

shows that customers may change their type of business or organization. Henson

changes displays, options, merchandising and pricing accordingly. See also at least

Col. 10, lines 30-Col. 11, line 9.

Therefore, Applicant's arguments concerning inability of customers to update

customer data in the store databases are not persuasive.

Examiner cites particular columns and line numbers in the references as applied

to the claims for the convenience of the applicant. Although the specified citations are

representative of the teachings in the art and are applied to the specific limitations within

the individual claim, other passages and figures may apply as well. It is respectfully

requested that, in preparing responses, the applicant fully consider the references in

entirety as potentially teaching all or part of the claimed invention, as well as the context

of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented and
the prior art are such that the subject matter as a whole would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Henson (US Patent 6,167,383) in view of Dell Uses Internet to Offer Small Business

Customers Personalized Sales and Educational Programs, *Business Editors &*

Technology Writers. **Business Wire,** New York: Jul 20, 1998, downloaded from

ProQuest on the Internet on 14 October 2004, 2 pages.

Please note that the term "automated assistance" does not appear in applicant's

disclosures; applicant refers to "...general assistance..." The Examiner will apply the

broadest reasonable interpretation of the term "automated assistance" to include a

customer's pressing a help button, such as shown in Fig. 3C, as well as a customer's

interaction over a telephone with help/support/sales personnel.

Henson discloses methods and computer-readable memory with instructions that

permit users to optimize (customize) base products such as computers. Henson stores

data in databases that may be queried to obtain and update information concerning

users (including user characteristics), products (including product components) and

·user activity and events. For purposes of this examination, the term *optimize* will be

given its broadest reasonable interpretation, "to make as perfect, effective or functional

as possible."[1] Henson allows users to make their computers as perfect, effective and

functional as possible, i.e. optimize, by guiding users via recommendations presented

as menu options. For example, the system lets users know when one or more options

are not compatible for one reason or another.

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[1] Definition of Optimize, Merriam Webster's Collegiate Dictionary.

<u>User information (user profile) and characteristics</u> Henson discloses that user

information is stored in various databases (Col. 2, line 60-Col. 3, line 54). Stored user

information contains at least one characteristic of users, such as whether a user is an

individual or a business (for example, Col. 13, lines 29-62). For new users, where user

record may not exist, Henson creates a user record (for example, Col. 12, lines 19-39).

Henson permits customers to select and update characteristics of their

information in the databases: Fig. 8, for example, shows that customers may change

their type of business or organization. See also at least Col. 10, lines 30-Col. 11, line 9.

Henson changes displays, options, merchandising and pricing accordingly (Applicant's

price sensitivity, in new claim 39).

User information contains fields that store characteristics related to a user, such

as the extent of the desire of the user to get recommendations from advisor module.

For example, "help me choose" button, Fig. 4. Users can request ask and obtain

recommendation (for example, Col. 3, lines 12-29). Henson also responds according to

a user's interest in specific product components and their qualities. For example, see

Fig. 4 and related text. Users may select options from menus to optimize base products

with product components. For example, Col. 8, line 56-Col. 9, line7, Col. 14, lines 4-

Col. 15, line 45. Henson obtains identification of a user (for example, Abstract, as well

as Col. 2, line 60-Col. 3, line 12). See also references to user classification, Fig. 7-10

and related text, Col. 11, line 9-Col. 12, line 61.

<u>Product and component Information</u> Henson discloses options for selecting

components (e.g., types of computer systems and types of memory). See, for example,

Fig. 5 and related text concerning memory options. Shopping carts store information

concerning products, events and user activities for resumed use during different

sessions. Henson updates shopping cart information to include information obtained

dynamically and in response to user actions. The data is formatted and displayed

according to updated information. See, for example, references to shopping carts and

control by sessions, Col. 9, line 40-Col. 11, line 9). See also Fig. 6, which shows that

users may store updated product and component information for later sessions.

Formatted Display Henson discloses formatting display according to user

characteristics. For example, Col. 11, line 63-Col. 12, line 9, which discloses formatting

a display to omit questions such as company or organization name for home

consumers. Henson displays formatted information concerning base products and

components such as memory, monitors, video cards, etc. For example, Figs. 4 and 5

and related text. For default options, see Col. 9, lines 8-25. See also Fig. 5 for options

that are presented as defaults when a formatted display is presented to a user.

Formatted display may include menus that include one or more of the following:

different sets of options associated with a base product (for example, Fig. 5). Displays

present correlations between a component in a product and a characteristic in a user's

information when the correlation exceeds a threshold value such as lead time. See, for

example, reduction of lead times according to user information and product component

availability, Col. 14, line 35-Col. 15, line 8.

Henson discloses that the system may notify users via on-screen text and

messages. See, for example, references to messages of gratitude (Col. 5, lines 19-28).

Product optimization Henson discloses that a product is optimized when a user

indicates that said product is optimized, such as when a user clicks on a button that

places an order. For example, "place order" button, Fig. 6, Col. 9, lines 40-55.

Alternatively, when components and products are altered, Henson stores and displays

updated pricing information. See, for example, references to Cart total (Fig. 6).

The steps described by Henson are performed reiteratively until a user has

optimized a product. Henson discloses the use of selectable events to notify the system

that a user has made a selection, or when a user requests assistance, such as when a

user presses a help button (Applicant's new claim 37, automated assistance at the

request of a user). For example, Col. 13, lines 6-53.

Henson *does not* specifically use the terms "sales module" or "advisor module"

to describe modules, functions and executable instructions. However, it would have

been obvious to one of ordinary skill in the art, at the time the invention was made, to

classify executable instructions according to functions and into modules such as

described by Henson, since it has been held that rearranging parts of an invention

involves only routine skill in the art. *In re Japikse, 86 USPQ 70.*

Henson *does not* specifically disclose that the customer database information

comprises an indicator that indicates the number of times that the user requested

automated assistance, as in new claim 38. Business Wire discloses that Dell's Premier

Pages (Henson, Col. 14, lines 35-61) keep track of a customer's purchase and service

history. Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to disclose storing in a customer database information

such as an indicator that indicates the number of times that the user requested automated assistance.

One of ordinary skill in the art at the time the invention was made would have been motivated to disclose storing in a customer database information such as an indicator that indicates the number of times that the user requested automated assistance for the obvious reason that by storing the information, a merchant can determine whether particular customers need more assistance than others. In addition, tracking service histories of products assists merchants to determine that particular products are less reliable and are responsible for a large number of requests for assistance, for example.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Special Dell-ivery, *Joseph E Maglitta*. Electronic Business. Highlands Ranch: Dec 1997. Vol. 23, Iss. 12; p. 43 (7 pages), downloaded from ProQuest on the Internet on 14 October 2004.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H Zurita whose telephone number is 703-605-4966. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Zurita
Patent Examiner
Art Unit 3625
14 October 2004

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